

EXHIBIT 470

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

IN RE: NATIONAL	:	
PRESCRIPTION	:	MDL No. 2804
OPIATE LITIGATION	:	
	:	Case No.
	:	1:17-MD-2804
THIS DOCUMENT RELATES	:	
TO ALL CASES	:	Hon. Dan A. Polster

- - -

Monday, January 7, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

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Videotaped deposition of TOM NAMETH, held at
the offices of Cavitch, Familo & Durkin,
1300 East Ninth Street, Cleveland, Ohio, commencing at
9:03 a.m., on the above date, before Carol A. Kirk,
Registered Merit Reporter and Notary Public.

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1 process.

2 Q. As a pharmacist, and based on your
3 understanding of the Controlled Substances Act,
4 to the extent that DDM could have done that, do
5 you think it should have?

6 A. In my opinion, I think we -- the
7 system that we had was working well enough that
8 we didn't need to do that.

9 Q. Okay.

10 A. And there's other problems with
11 that. When you get into a system that only has
12 black and white, that doesn't look at anything
13 else besides the number.

14 Q. Okay.

15 A. We think by looking -- having an
16 eyeball on a human being, looking at -- knowing
17 our stores and knowing our pharmacists, knowing
18 the store locations, the growth of the store and
19 all that, we have actually maybe a better aspect
20 of what's going on at store level than someone
21 that's just doing a black and white aspect of
22 cutting an order.

23 Q. Why couldn't you do both?

24 A. We felt that we didn't need to.

1 Q. Would imposing a system that would
2 identify possible suspicious orders in advance
3 and halt shipments, that would create more work,
4 wouldn't it?

5 A. Well, if you're going to stop --

6 Q. It's a very simple question. I'm
7 just -- would it create more work or not?

8 A. You've got to create another
9 system.

10 Q. Okay. So it would be more work
11 for somebody at DDM, right?

12 A. But that's not why we did it --
13 didn't do it.

14 Q. But I didn't ask that question. I
15 just asked if it would create more work.

16 A. Possibly.

17 Q. Okay. Can you think of an
18 instance where it would create less work?

19 A. Depends how smart your system was.
20 I don't know.

21 Q. So but presumably if you put that
22 system in place, it would stop an order, right?
23 All of a sudden now someone's got to deal with a
24 stopped order, right?

1 A. Yes. Now -- so if you're saying
2 then you're going to stop an order and then have
3 somebody look at it and then override that
4 stopped order, then is there a reason why you're
5 stopping the order?

6 Q. Well, I mean, just let's say
7 there's an order that shows up on your 12-month
8 report. Let's say prospectively you get the
9 report, the second the order is placed, and it
10 says, "Hey, this person is ordering more than
11 what their average has been now with this last
12 order," you could do that, right?

13 A. So you're going to do exactly what
14 we're doing now in a quicker time -- in an
15 earlier time frame.

16 Q. It would be designed to catch
17 those orders before they went out, right?

18 A. Yes.

19 Q. Is there any reason why you
20 couldn't have done that, other than IT problems?

21 A. Not that I would recall.

22 Q. Okay. Do you think that a system
23 like that would have been useful to help stop --
24 to identify suspicious orders and stop

1 diversion?

2 A. Well, based on my knowledge and
3 looking at what I dealt with and the reason --
4 and not having a suspicious order, you know,
5 retrospectively in my mind, I wouldn't have a
6 need to do it.

7 Q. Okay. But, again, that's based on
8 the fact that you never personally identified an
9 order that you decided was suspicious, correct?

10 A. Correct.

11 Q. Okay. But if that system or that
12 report you reviewed was designed to generate
13 every time a store exceeded their threshold with
14 an order, that wouldn't require that much more
15 work for you, right? You might have had to look
16 at the report more often, but it would have been
17 the same process, right?

18 A. Yes.

19 Q. Okay. You would agree that DDM
20 had the tools necessary, therefore, to identify
21 suspicious orders, stop them before they went
22 out, and report them to the DEA immediately if
23 it chose to, correct?

24 A. I can't answer that, because

1 you're -- like I stated before, that I'm not
2 quite sure if our IT department would have the
3 ability to do that.

4 Q. Okay.

5 A. And you're saying they did.

6 Q. So you don't know, as you sit here
7 today, whether DDM had the tools necessary to
8 identify suspicious orders in advance and stop
9 them before they went out?

10 A. That's basically what I'm saying,
11 yeah, without looking into it further.

12 Q. Okay.

13 A. I mean, I can't answer that.

14 Q. So would that also mean that DDM
15 didn't actually do that?

16 A. No. I mean, you know, that they
17 looked at it and said that they weren't going to
18 do it?

19 Q. Well, you just told me you didn't
20 know whether DDM had the tools necessary to
21 identify a suspicious order and stop it before
22 it went out, right?

23 A. Right.

24 Q. So that would suggest to me that

1 DDM didn't identify suspicious orders or stop
2 them before they went out, right?

3 MR. JOHNSON: Objection.

4 Q. So that it could stop them before
5 they went out?

6 A. So that they could stop them
7 before they went out?

8 Q. Correct.

9 A. Yeah.

10 Q. Okay. They didn't?

11 A. They didn't what?

12 Q. This is like a Monty Python movie,
13 right? Sometimes. Let me ask the question
14 again.

15 So your testimony is that you
16 don't know whether DDM had the tools necessary
17 to identify suspicious orders and stop them
18 before they went out, right?

19 A. Correct.

20 Q. Okay. So you would also agree
21 that DDM did not identify suspicious orders in a
22 way that would allow them to stop them before
23 they went out, right?

24 MR. JOHNSON: Objection.

1 Q. And I think you said yes?

2 A. Yes.

3 Q. Okay. You would agree that DDM's
4 in the best position to ensure that any
5 suspicious orders placed within its business are
6 reported to the Ohio State Board and the DEA,
7 right?

8 A. Yes.

9 Q. Okay. Do you know what the most
10 dispensed drug was at DDM pharmacies, let's say
11 in 2014?

12 A. Offhand, no.

13 Q. Okay. Do you know what the most
14 dispensed controlled substance was?

15 A. I would -- I would be guessing if
16 I gave you an answer.

17 Q. Okay. Do you have a couple that
18 might be in the running?

19 A. Controlled drugs?

20 Q. Yeah.

21 A. It could have been a
22 codeine-containing cough syrup. Could have been
23 Ambien.

24 Q. Anything else?

1 A. It could have been a family of
2 hydrocodones, you know, as a group.

3 Q. Okay. That would include brand,
4 generic, et cetera? Different --

5 A. Different strengths.

6 Q. -- strengths?

7 A. Different -- yeah.

8 Q. Okay. What percentage of DDM's
9 pharmacy business was controlled versus not
10 controlled in 2014, do you know?

11 A. I don't know.

12 Q. Do you know, was it reflective of
13 the national average; was it higher or lower?

14 A. I can't really answer that.

15 Q. Did you ever do anything to
16 monitor or identify what the most -- or the
17 largest -- strike that.

18 Did you ever do anything to
19 identify or monitor which controlled substance
20 was being prescribed the most frequently and
21 filled in your stores?

22 A. Did we monitor that?

23 Q. Yeah, did you ever do anything to
24 monitor that?

1 A. No.

2 Q. Do you know if anybody else did?

3 A. I don't know that.

4 Q. Do you know whether there were
5 ever any large unexplained increases of, let's
6 say, hydrocodone prescriptions at any time when
7 you were at DDM?

8 A. They showed up on our reports, if
9 there were large increases in orders.

10 Q. Do you know just from a chain wide
11 standpoint, were there ever any large
12 unexplained trends of use of hydrocodone within
13 the DDM system?

14 A. Well, I'm sure we followed the
15 national trend, and the national trend was an
16 increase in hydrocodone use. So we wouldn't be
17 any different than anybody else.

18 Q. But you're just speculating,
19 right? You don't actually know?

20 A. Yes.

21 Q. Okay. Do you know what the most
22 commonly diverted drugs are?

23 A. I would say that Schedule II
24 narcotics.

1 Q. Would that include hydrocodone?

2 A. It does now. It didn't then.

3 Q. Well, you're saying the
4 Schedule II didn't include hydrocodone then?

5 A. Well, no. I mean, I'm not sure of
6 your question. The most highly diverted drugs?

7 Q. Mm-hmm.

8 A. I would have to assume it would be
9 any Schedule II or hydrocodones or IIIs at that
10 particular point.

11 Q. Were you aware of the most highly
12 diverted or most likely to be diverted drugs
13 were when you were working at DDM?

14 A. I knew that hydrocodones were a
15 particular potential problem.

16 Q. And that, in addition to those
17 other two drugs that make up the trilogy; is
18 that right?

19 A. Yes.

20 Q. And that's -- what, benzo is the
21 other one. What's the third one?

22 A. Basically codeine-containing cough
23 syrups, because of cough, cold and flu seasons.
24 I mean, that's a very highly used particular

1 product.

2 Q. So as a pharmacist and the
3 director of pharmacy operations at DDM, you were
4 aware of the types of drugs that were most
5 commonly diverted, correct?

6 A. I would say yes.

7 Q. And did you do anything special to
8 monitor the movement of those drugs within DDM's
9 system, other than what we've talked about today
10 with that 12-month report?

11 A. No.

12 Q. Okay. Did you ever run any
13 reports or look at any trends over time to see
14 how commonly those types of drugs were being
15 filled at DDM stores?

16 A. Did not.

17 Q. Are you aware of anybody that did?

18 A. I'm not aware of that.

19 Q. Is that something you could have
20 done?

21 A. A trend for us? It's possible,
22 yes.

23 Q. Okay. Do you think looking at
24 trends of how hydrocodone was being filled in

1 your stores over time would have been helpful to
2 determine whether your suspicious order
3 monitoring policies and procedures were
4 adequate?

5 A. Well, the problem with that is
6 that if you're getting actual legitimate
7 prescriptions for particular products, you
8 would -- if the trend was upward, then we would
9 actually not look at that because we have
10 legitimate prescriptions that we're filling. So
11 it would determine whether or not you're filling
12 legitimate prescriptions at that point.

13 So if the prescription use was up,
14 then we would assume that the orders were going
15 to be up, and the distribution was up.

16 Q. But we know -- it's common
17 knowledge that there were tons of illegitimate
18 prescriptions that led to this opioid crisis,
19 correct?

20 MR. JOHNSON: Objection.

21 A. Define "illegitimate
22 prescriptions."

23 Q. Prescriptions that were written by
24 pill mills. Prescriptions that were written for